

under the Act or the regulations thereunder, including the obligation to disclose all material information to existing or prospective option customers even if the information is not specifically required by this section.

(g) For purposes of this section, neither a futures commission merchant nor an introducing broker shall be deemed to be an option customer.

(Approved by the Office of Management and Budget under control number 3038–0007)

[46 FR 54529, Nov. 3, 1981, as amended at 46 FR 63036, Dec. 30, 1981; 48 FR 35302, Aug. 3, 1983; 49 FR 44893, Nov. 13, 1984; 51 FR 17475, May 13, 1986; 58 FR 17505, Apr. 5, 1993; 59 FR 34381, July 5, 1994]

### § 33.8 Promotional material.

Each futures commission merchant and each introducing broker shall retain, in accordance with § 1.31 of this chapter, all promotional material it provides, directly or indirectly, to option customers as well as the true source of authority for the information contained therein.

[48 FR 35303, Aug. 3, 1983]

### § 33.9 Unlawful activities.

It shall be unlawful for any person:

(a) Required to be registered with the Commission in accordance with the Act or these regulations expressly or impliedly to represent that the Commission, by declaring effective the registration of such person or otherwise, has directly or indirectly approved such person, or any commodity option transaction solicited or accepted by such person;

(b) In or in connection with an offer to enter into, the entry into, the confirmation of the execution of, or the maintenance of any commodity option transaction, expressly or impliedly to represent that compliance with the provisions of the Act or these regulations constitutes a guarantee of the fulfillment of the commodity option transaction;

(c) Upon acceptance of an order for a commodity option transaction, to fail unreasonably to secure prompt execution of such order or upon rejection of an order to fail to notify the person whose order has been rejected of such rejection;

(d) To manipulate or attempt to manipulate the market price of any commodity option on or subject to the rules of any contract market: *Provided, however,* That for purposes of this paragraph (d), any action taken by a contract market pursuant to a rule approved by the Commission or any emergency action which a contract market is permitted to take pursuant to the Act or these regulations shall not be deemed to be a manipulation; and

(e) Upon acceptance of an order for a commodity option transaction to buck-et such order.

[46 FR 54529, Nov. 3, 1981; 46 FR 55925, Nov. 13, 1981]

### § 33.10 Fraud in connection with commodity option transactions.

It shall be unlawful for any person directly or indirectly:

(a) To cheat or defraud or attempt to cheat or defraud any other person;

(b) To make or cause to be made to any other person any false report or statement thereof or cause to be entered for any person any false record thereof;

(c) To deceive or attempt to deceive any other person by any means whatsoever

in or in connection with an offer to enter into, the entry into, the confirmation of the execution of, or the maintenance of, any commodity option transaction.

### § 33.11 Exemptions.

The Commission may, by order, upon written request or upon its own motion, exempt any person, either unconditionally or on a temporary or other conditional basis, from any provisions of this part, other than §§ 33.9 and 33.10, if it finds, in its discretion, that it would not be contrary to the public interest to grant such exemption.

[52 FR 29508, Aug. 10, 1987]

## PART 34—REGULATION OF HYBRID INSTRUMENTS

Sec.

34.1 Scope.

34.2 Definitions.

34.3 Hybrid instrument exemption.